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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,082	12/03/2003	Frank N. Blundo	32978	6048

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PEARSON & PEARSON, LLP
10 GEORGIA STREET
LOWELL, MA 01852

EXAMINER	
NGUYEN, CHI Q	

ART UNIT	PAPER NUMBER
3635	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/727,082	BLUNDO, FRANK N.	
	Examiner	Art Unit	
	Chi Q Nguyen	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 December 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) *8 and 15-22* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7,and 9-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 December 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121.

I. Claim 8 drawn to method of forming a panel, classified in class 29.

II. Claims 1-7, and 9-14, drawn to apparatus of a panel, classified in class 52, subclass 582.1.

III. Claims 15-22, drawn to apparatus of a frame, classified in class 52, subclass 481.2

The inventions I, II, and III are related as process of making and product made. The inventions are distinct if either of the following can be shown:

(1) that the process as claimed can be used to make other and materially different product or

(2) that the product as claimed can be made by another and materially different process.

For instant case, the apparatus claims could be made by a method different than that group I such as making panel with channels from plastic material, which inherently having thermally nonconducting material. And group III is different from groups I and II thus different invention.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purpose as indicated is proper.

A telephone call was made to request an oral election on 8/16/2004 with Mr. Walter F. Dawson; and the applicant was elected no traverse to group II (claims 1-7, and 9-14). And claims 8, and 15-22 are non-elective claims and being withdrawn from consideration.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-6, and 11-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the applicant's claimed citation for a panel having at least one channel for receiving a flange. The flange does not positively claimed; therefore, claims 3-6, and 11-14 are being indefinite because it is unclear the "flange" is part of the panel. Clarification is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kay (US 4,704,839).

In regarding claim 1, Kay teaches a thermal barrier extrusion comprising at least one channel 154 positioned on a side of the panel, said channel extending the length of the panel 150, a thermally non-conducting section 184 of the panel located adjacent to the channel 154 and extending the length of the panel, an end section of the panel having a first end 152 attached to the thermally non-conducting section 184 and extending the length of the panel and a second opposite end 156 having an elongated slot (figs. 8 and 10).

In regarding claim 9, Kay teaches a thermal barrier extrusion comprising a first side of the panel 150 having a first channel, and a second channel 154, said second channel being adjacent to the first channel, and the first channel and the second channel extending the length of the panel, a thermally non-conducting section 184 of the panel located adjacent to the first channel and extending the length of the panel, an outer end section having a first end 152 attached to the thermally non-conducting section 184 and extending the length of the panel, and a second opposite end 156 of the end section having an elongated slot (figs. 8 and 10).

In regarding claims 2 and 10, each of the channels 150 and 154 is inherently having retaining edges, one on each side.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kay (US 4,704,839) in view of Harbin (US 4,428,171).

In regarding claim 7, Kay teaches a thermal barrier extrusion as discussed above. However, Kay does not teach expressly an end of the panel comprises predetermined spaced apart openings for receiving screws for interconnecting the panels. Harbin teaches thermal storefront system comprising included a plurality predetermined spaced apart openings for receiving screws 55 (fig. 3). At the time of the

invention, it would have been obvious to a person of ordinary skill in the art to combine Kay with Harbin for the predetermined apart openings for receiving screws for interconnecting the panels. The motivation for doing so would have been to provide more securement for the thermal barrier system.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Zacky et al. (US 4,625,483), Vanderstar (US 4,117,640), Lizdas et al. (US 3,924,373), Walterman et al. (US 2,755,895), Lang et al. (US 5,481,839), Tiedeken (US 3,956,863), and Moench et al. (US 4,754,592) teach window frames.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

CQN
8/20/04

Carl D. Friedman
Supervisory Patent Examiner
Group 3600